

**ASSEMBLY BILL**

**No. 1863**

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**Introduced by Assembly Member Jones**

February 19, 2014

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An act to amend Sections 1796.22, 1796.33, 1796.38, and 1796.63 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1863, as introduced, Jones. Home Care Services Consumer Protection Act.

Existing law establishes the Home Care Services Consumer Protection Act (the act), which provides, on and after January 1, 2015, for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and for the registration of home care aides. Existing law requires background clearances for home care aides and home care organizations, as specified. Existing law authorizes any individual that possesses, among other things, a valid Alien Registration Card, and who has submitted an application, to initiate a background examination to be either a registered home care aide or to be a licensed home care organization.

This bill would authorize any individual that possesses either a valid Alien Registration Receipt Card or valid Permanent Resident Card to initiate a background examination to be either a registered home care aide or to be a licensed home care organization.

Existing law requires the State Department of Social Services to post any proposed regulations promulgated for purposes of implementing the act on its public Internet Web site no earlier than 10 calendar days prior to the effective date of the proposed rule, as specified.

This bill would instead require the State Department of Social Services to post any proposed regulations promulgated on its public Internet Web site no later than 90 calendar days prior to the effective date of the proposed rule, as specified.

This bill would also correct an erroneous cross-reference.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1796.22 of the Health and Safety Code  
2     is amended to read:

3     1796.22. Any individual who has submitted an application and  
4     who possesses any one of the following identification cards may  
5     initiate a background examination to be a registered home care  
6     aide:

7     (a) A valid California driver's license.

8     (b) A valid identification card issued by the Department of  
9     Motor Vehicles.

10    (c) A valid Alien Registration *Receipt Card or valid Permanent*  
11    *Resident Card*.

12    (d) In the case of a person living in a state other than California,  
13    a valid numbered photo identification card issued by an agency of  
14    the state other than California.

15    SEC. 2. Section 1796.33 of the Health and Safety Code is  
16    amended to read:

17    1796.33. Any individual who has submitted an application and  
18    who possesses any one of the following identification cards may  
19    initiate a background examination to be a licensed home care  
20    organization:

21    (a) A valid California driver's license.

22    (b) A valid identification card issued by the Department of  
23    Motor Vehicles.

24    (c) A valid Alien Registration *Receipt Card or valid Permanent*  
25    *Resident Card*.

26    (d) In the case of a person living in a state other than California,  
27    a valid numbered photo identification card issued by an agency of  
28    the state other than California.

29    SEC. 3. Section 1796.38 of the Health and Safety Code is  
30    amended to read:

1 1796.38. The department may issue a home care organization  
2 license to an individual or other entity that satisfies all of the  
3 requirements set forth in this chapter, including all of the following:

4 (a) Files a home care organization application, including the  
5 fees required pursuant to Section 1796.49.

6 (b) Submits proof of general and professional liability insurance  
7 in the amount of at least one million dollars (\$1,000,000) per  
8 occurrence and three million dollars (\$3,000,000) in the aggregate.

9 (c) Submits proof of a valid workers' compensation policy  
10 covering its affiliated home care aides. The proof shall consist of  
11 the policy number, the effective and expiration dates of the policy,  
12 and the name and address of the policy carrier.

13 (d) Provides the department, upon request, with a complete list  
14 of its affiliated home care aides, and proof that each satisfies the  
15 requirements of Section ~~1796.43~~ 1796.34.

16 (e) The owner or owners of the home care organization pass a  
17 background examination, as required pursuant to Section 1796.34.

18 (f) The applicant does not have any outstanding fees or civil  
19 penalties due to the department.

20 SEC. 4. Section 1796.63 of the Health and Safety Code is  
21 amended to read:

22 1796.63. The department shall adopt, amend, or repeal, in  
23 accordance with Chapter 3.5 (commencing with Section 11340)  
24 of the Government Code, any reasonable rules, regulations, and  
25 standards as may be necessary or proper to carry out the purpose  
26 and intent of this chapter and to enable the department to exercise  
27 the powers and perform the duties conferred upon it by this chapter,  
28 not inconsistent with any of the provisions of any statute of this  
29 state. Notwithstanding the rulemaking provisions of the  
30 Administrative Procedure Act (Chapter 3.5 (commencing with  
31 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
32 Code), the department may implement and administer this chapter  
33 through written directives, without taking regulatory action, subject  
34 to the limitations provided in subdivision (b).

35 (a) The department shall post any proposed rules promulgated  
36 under this section on its public Internet Web site no ~~earlier~~ *later*  
37 ~~than 10~~ 90 calendar days prior to the effective date of the proposed  
38 rule, which shall also include notification to the public regarding  
39 how members of the public may comment, including the date on

1   which those comment must be received in order to be considered  
2   by the department.  
3   (b) The department's authority to implement and administer  
4   this section through written directives shall expire no later than 12  
5   months after the written directives are promulgated and posted on  
6   a public Internet Web site, or upon the effective date of regulations  
7   promulgated in accordance with the Administrative Procedure Act  
8   (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
9   Division 3 of Title 2 of the Government Code), whichever occurs  
10  sooner.